

**FILED**

JAN 29 2010

PATRICK E. DUFFY, CLERK

By \_\_\_\_\_  
DEPUTY CLERK, BUTTE

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**GREAT FALLS DIVISION**

JEREMIAH CLAY PRESTON,

Plaintiff,

**VS.**

SHERIFF DAVID CASTLE,  
CAPTAIN DAN O'FALLON, NURSE  
PRACTITIONER LAURAL  
VANDERCHEK, CORPORAL BILL  
NEVINS, OFFICER MIKE  
DESSAULT, OFFICER WILLIAM  
KOMAR, and the CASCADE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS,

**Defendants.**

CV 07-122-GF-SEH

## ORDER

On November 19, 2009, United States Magistrate Judge Keith Strong entered Findings and Recommendations<sup>1</sup> in this matter. Plaintiff filed objections

<sup>1</sup> Docket No. 59.

on December 28, 2009<sup>2</sup>. The Court reviews *de novo* findings and recommendation to which objections are made. 28 U.S.C. § 636(b)(1).

Upon *de novo* review of the record, I find no error in Judge Strong's Findings and Recommendations and adopt them in full.

Also before the Court is Plaintiff's Motion for Continuance.<sup>3</sup> Plaintiff, by affidavit, claims additional discovery is needed under Fed. R. Civ. P. 56(f). "A party requesting a continuance pursuant to Rule 56(f) must identify by affidavit the specific facts that further discovery would reveal, and explain why those facts would preclude summary judgment." Tatum v. City and County of San Francisco, 441 F.3d 1090, 1100 (9th Cir. 2006). Here, Plaintiff's affidavit fails to either identify the specific facts further discovery may reveal, or explain why those facts would preclude summary judgment. Plaintiff does not satisfy his burden under Fed. R. Civ. P. 56(f).

ORDERED:

1. Defendants' Motions for Summary Judgment<sup>4</sup> are GRANTED.

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<sup>2</sup>Document No. 62.

<sup>3</sup>Document No. 63.

<sup>4</sup>Document Nos. 29 and 47.

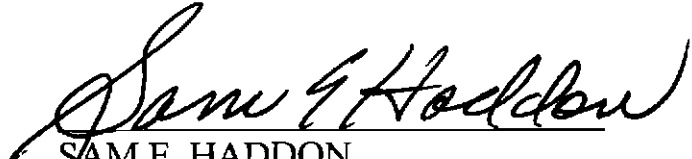
2. Plaintiff's Motion for Continuance<sup>5</sup> is DENIED.

3. The Clerk of Court is directed to close this matter and enter judgment pursuant to Fed. R. Civ. P. 58.

4. Any appeal of this decision would not be taken in good faith as no reasonable person could conclude that an appeal had merit. Fed. R. App.

24(a)(3)(A).

DATED this 29<sup>th</sup> day of January, 2010.

  
SAM E. HADDON  
United States District Judge

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<sup>5</sup>Document No. 63.